

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARSHA TRAVIS and U.S. POSTAL SERVICE,  
POST OFFICE, Clayton, Mo.

*Docket No. 96-2381; Submitted on the Record;  
Issued September 10, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained an emotional condition causally related to compensable factors of her federal employment.

On December 3, 1994 appellant, a letter carrier, filed a claim alleging that she sustained emotional stress causally related to her employment. In an accompanying statement, appellant asserted that she was subject to discrimination. Appellant stated that some carriers hide and curtail significant amounts of mail, and some employees do not case mail after the 8:30 a.m. mail or in the afternoon. According to appellant, on October 26, 1994 her supervisor told her that regardless of other carriers, she had to keep her routes clean and would have to do afternoon casing. Appellant stated that on October 27, 1994, she asked her supervisor for two hours of overtime, and the request was denied, which appellant felt was unfair. Appellant also described a December 2, 1994 incident in which her supervisor told her that she was wearing the wrong uniform shirt, even though other carriers were wearing the same shirt and management did not make any comments to them.

In a statement received by the Office of Workers' Compensation Programs on April 7, 1995, appellant stated that harassment and discrimination had occurred. She asserted that on December 3, 1994 her supervisor was "picking on me," that her supervisor made up lies about her, and that she received dirty looks from management because she reported what was going on in the office. Appellant did not provide further details.

In a decision dated May 31, 1995, the Office denied appellant's claim on the grounds that fact of injury had not been established. Following a request for a review of the written record, an Office hearing representative affirmed the denial of the claim by decision dated January 17, 1996. In a decision dated May 29, 1996, the Office denied a request for reconsideration.

The Board has reviewed the record and finds that appellant has not established an emotional condition in the performance of duty.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.<sup>1</sup> To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>2</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>3</sup>

In this case, appellant has used the terms harassment and discrimination in describing the factors alleged to have contributed to her condition. With respect to a claim based on harassment or discrimination, the Board has held a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.<sup>4</sup> Mere perceptions of harassment or discrimination do not constitute a compensable factor of employment.<sup>5</sup> Appellant has not submitted probative evidence in this case. There is a general allegation that her work was not appreciated and that she was not treated fairly, but there is no supporting evidence to establish a claim based on harassment or discrimination.<sup>6</sup>

The specific allegations in this case involve actions of a supervisor in an administrative capacity, such as being told to do afternoon casing, the denial of overtime, or being advised as to the proper uniform. Although the handling of such personnel matters is generally related to employment, it is an administrative function of the employer, not a duty of the employee.<sup>7</sup> An

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<sup>1</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>2</sup> *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *Barbara J. Nicholson*, 45 ECAB 803 (1994).

<sup>5</sup> *Sharon R. Bowman*, 45 ECAB 187 (1993).

<sup>6</sup> The Board notes that there is no indication that an EEO (Equal Employment Opportunity) claim was filed.

<sup>7</sup> *Anne L. Livermore*, 46 ECAB 425 (1995).

administrative or personnel matter will not be considered a compensable factor of employment unless the evidence discloses that the employing establishment erred or acted abusively.<sup>8</sup>

In this case, there is no evidence of error or abuse. There is a statement from appellant's supervisor dated December 12, 1994 discussing the specific instances alleged and asserting that employing establishment procedures were followed. The record does not contain probative evidence of error or abuse in an administrative matter. Accordingly, the Board finds that appellant has not established a compensable factor of employment. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>9</sup>

The decisions of the Office of Workers' Compensation Programs dated May 29 and January 17, 1996 are affirmed.

Dated, Washington, D.C.  
September 10, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>8</sup> See *Sharon R. Bowman*, *supra* note 5.

<sup>9</sup> See *Margaret S. Krzycki*, 43 ECAB 496 (1992).